

The Case for an Innovation Principle: A Comparative Law and Economics Analysis

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Summary

After the rise of the precautionary principle (or approach) in the late 1990s in a number of jurisdictions, the economic consequences of this newly created principle of law have unfolded. Such consequences were either acclaimed - for providing a minimisation of a number of externalities - or lambasted - for providing justificatory grounds for the prohibition of potentially propitious innovations due to the existence of scientific uncertainties.

Whereas innovation has increasingly become of salient importance in today's economies, European economies face sluggish economic growth rates partly caused by a regulatory framework where risk-aversion is incentivized. The precautionary principle induces and favours risk-aversion at the expense of innovation.

This Article discusses the law and economic foundations and implications of the precautionary principle in the WTO, the European Union, France and the United Kingdom. Having introduced the importance of law in stifling innovation and discussed the current precautionary principle, this Article vouches for an innovation principle to come to the fore in order to counterbalance the innovation-costly precautionary principle. A number of recommendations are proposed at the end of the article.

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